

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1566 of 1997
to

FIRST APPEAL No 1601 of 1997

with
Civil Application No. 5014 of 1997
in
First Appeal No.1566 of 1997
with
Civil Applications Nos. 10060 to 10095 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE M.H.KADRI

=====

1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes
2. To be referred to the Reporter or not?
No
3. Whether Their Lordships wish to see the fair copy
of the judgement? No
4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
No
5. Whether it is to be circulated to the Civil Judge?
No

LAND ACQUISITION OFFICER

Versus

PARBHATSINH GORSINH GURJAR'S THRO' HIS HEIRS

Appearance:

Mr.P.G.Desai, GOVERNMENT PLEADER, for Appellant
Mr. K.M.Sheth for the respondents-claimants

CORAM : MR.JUSTICE J.N.BHATT and MR.JUSTICE M.H.KADRI

Date of decision: 23/10/97

COMMON ORAL JUDGMENT: (Per: J.N. Bhatt, J.)

Admit. Learned advocate, Mr. K.M. Sheth, waives service of notice of admission on behalf of the respondents-original claimants. By the consent of learned advocates for the parties, this group of First Appeals is taken up for final hearing.

As the common questions of law and facts are involved in this group of First Appeals, they are disposed of by the common judgment.

The larger question, which has come up for consideration in this group of First Appeals, under Section 54 of the Land Acquisition Act, 1894 ('Act' for short), read with Section 96 of the Code of Civil Procedure, 1908, is whether assessment of market value, at the rate of Rs.7.00 per sq.mtr., for the purpose of compensation made by the reference court, of the land acquired in village Asaidi, Taluka Godhra, for the purpose of construction of Narmada Main Canal, by virtue of Notifications Under Section 4(1) of the Act, dated January 2, 1986 and November 26, 1986, followed by Notifications Under Section 6(1) of the Act, dated February 13, 1986 and November 27, 1986, is justified, legal and valid or not.

The reference court, by virtue of a composite and common judgment, dated December 16, 1996, in respect of group of 36 Land Acquisition Reference Cases, awarded compensation, assessing the market value, at the rate of Rs.7.00 per sq.mtr. for the agricultural lands, acquired by the State Government, in village Asaidi, Taluka Godhra, and also statutory benefits of Section 23(2) and 23(1-A) of the Act, as against the claim of Rs.100/- per sq.mtr. The respondents, herein, in this batch of 36 appeals, are the claimants before the reference court, who had challenged the awards of the Land Acquisition Officer. The State Government acquired the agricultural lands of village Asaidi, Taluka Godhra, for the purpose of construction of main canal of Narmada Irrigation Project, by virtue of notifications mentioned hereinabove. The Land Acquisition Officer, in two different groups of land reference cases, awarded a sum of Rs.13,000/- per Are, by way of compensation. Being dissatisfied by the amount of compensation of the Land Acquisition Officer, the claimants made references under Section 11 of the Act and the reference court enhanced the amount of compensation, in a common judgment and award, at Rs.7.00 per sq.mtr., which is under challenge in this group of appeals.

The reference court has placed reliance on a judgment of this Court, which was produced at Exh.48, wherein,

compensation at the rate of Rs.7.00 per sq.mtr came to be awarded for the land of village Ambala. In that case, Notification under Section 4 of the Act was published on November 4, 1986. and the land was acquired for the same purpose. Therefore, the contention that the award, which is confirmed in a judgment of this Court in First Appeal No.1731 of 1994, is most comparable instance for fixing reasonable amount of compensation, is quite justified. Our attention is also drawn by the learned advocates appearing for the parties, to the judgments and awards of this Court, which have become final, in relation to acquisition of lands for the similar purpose and for the same project in, nearby, areas, which are enumerated hereinafter.

(i) Award confirmed in First Appeal No.1731 of 1994 decided by the Division Bench of this Court on February 6, 1995 granting Rs.7.00 per sq.mtr. is in respect of the acquisition of lands for the same project in nearby area, wherein, the notification under Section 4(1) of the Act came to be published on August 11, 1986, and resultant notification under Section 6(1) of the Act came to be published on October 8, 1987.

(ii) The award passed by the reference court and confirmed by this Court in First Appeal No.2033 of 1994 in respect of the agricultural lands of the same project, wherein, also, the amount of compensation was assessed and awarded at Rs.7.00 per sq.mtr. The decision rendered by this Court in that First Appeal was carried further in the Supreme Court by filing Special Leave Petition No.1069 of 1995 which came to be dismissed on September 19, 1994. There is no dispute about the fact that the reference court awarded in connection with one of the adjoining lands for the same project referred to in First Appeal no.2033 of 1994 has become final wherein the rate of market value for the purpose of compensation has been assessed at Rs.7.00 per sq.mtr. In that case also, notification under Section 4(1) of the Act came to be published on April 7, 1986. Obviously, therefore, it is, rightly, not disputed that the award has become final and it can be relied upon.

There are three other First Appeals decided by this Court wherein the awards made by the reference court are confirmed and they are also comparable and acceptable which are as follows:

(i) First Appeal No.15/95, decided on February 6, 1995, wherein, the compensation was awarded at the rate of Rs.7/- per sq.mtr. in respect of agricultural lands acquired for the same project.

(ii) Award made by the reference court and confirmed by this Court in First Appeal No.96 of 1993 by the judgment dated February 6, 1995 and this Court awarded

compensation at the rate of Rs.9/- per sq.mtr. against the claim of Rs.11/- per sq.mtr. Notification in that case under Section 4(1) of the Act was published on January 31, 1988.

(iii) So is the case of the award of the reference court and confirmed by this Court in relation to the same project and agricultural lands crystallized in First Appeal No.456 of 1995, wherein, this Court affirmed the view of the reference court and held that the claimants are entitled to the amount of Rs.9.00 per sq.mtr. by way of compensation.

In view of the admitted facts and earlier awards, the amount of compensation in respect of the acquisition of lands, for the same project, for the same purpose, in the nearby villages, came to be awarded at Rs.7.00 per sq.mtr and, therefore, the reliance by the reference court and resultant award of compensation at the rate of Rs.7.00 per sq.mtr. after making assessment of market value in respect of acquisition of land pertaining to the aforesaid notifications in the present group of appeals, is quite just, reasonable and sustainable requiring no interference of this Court exercising its powers under Section 54 of the Act. Therefore, we confirm and affirm the said common judgment and award while dismissing the entire group of appeals.

No other contention is raised on behalf of the appellant.

It has been contended that enhanced compensation, by virtue of common judgment and award of the reference court, has not, so far, been paid or deposited by the appellant. Under the circumstances, the appellant is, hereby, directed to comply with the common judgment and award in respect of 36 appeals, within the period of eight weeks from today, before the reference court.

In the result, all the First Appeals stand dismissed, with no order as to costs.

In view of the order in the First Appeals, all the Civil Applications for extension of time and for stay, obviously, would not assume any survival value and, therefore, they shall stand also dismissed, with no order as to costs.

(swamy)